

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In Re: AUTOMOTIVE PARTS ANTITRUST LITIGATION	:	12-md-02311
	:	Honorable Marianne O. Battani
In Re: WIRE HARNESS CASES	:	
	:	
THIS DOCUMENT RELATES TO:	:	
ALL DEALERSHIP CASES	:	2:12-cv-00102-MOB-MKM
	:	
	:	
	:	

**RESPONSE OF NON-SETTLING DEFENDANTS TO MOTION FOR PRELIMINARY
APPROVAL OF PROPOSED SETTLEMENT WITH DEFENDANTS LEAR
CORPORATION AND KYUNGSHIN-LEAR SALES AND ENGINEERING, LLC AND
PROVISIONAL CERTIFICATION OF A SETTLEMENT CLASS [ECF No. 174]**

Defendants¹ (collectively, the “Non-Settling Defendants”) submit the following statement in response to the Motion for Preliminary Approval of Proposed Settlement with Defendants Lear Corporation and Kyungshin-Lear Sales and Engineering, LLC, and for Provisional Certification of a Settlement Class (No. 12-cv-00102, ECF No. 174) (“Motion”) filed by Dealership Plaintiffs (“Plaintiffs”) on June 13, 2014, in the above-captioned action. As part of the settlement process, Plaintiffs ask the Court, among other things, to certify a “Settlement Class” that is consistent with the purported class on whose behalf Plaintiffs have brought claims against all of the Defendants.

A. Any Order Preliminarily or Finally Approving the Proposed Settlement Should Include the Language Set Forth in Paragraph 14 of Plaintiffs’ Proposed Order.

The Non-Settling Defendants expect to contest a motion for class certification once that motion becomes ripe for consideration on a fully formed record. The Non-Settling Defendants expect to demonstrate that legal and factual issues differ across the range of the various purported class members, that those individual issues predominate over common issues, and that such individual issues will render trial on a class basis unmanageable, such that the class will not meet the certification requirements of Rule 23 of the Federal Rules of Civil Procedure.

Plaintiffs’ Motion, and more importantly, its Proposed Order, both recognize that the question of class certification of a litigation class will be hotly contested. To avoid a premature dispute and allow its purported settlement class to proceed, Plaintiffs have included the following language in their Proposed Order Granting Preliminary Approval of Settlement:

The Court’s provisional certification of the Settlement Class as provided herein is

¹ *DENSO Corporation, DENSO International America, Inc., Fujikura Ltd., Fujikura Automotive America LLC, Furukawa Electric Co., Ltd., American Furukawa, Inc., G.S. Electech, Inc., G.S.W. Manufacturing, Inc., G.S. Wiring Systems, Inc., K&S Wiring Systems, Inc., Leoni Wiring Systems, Inc., Leonische Holding Inc., Sumitomo Electric Industries, Ltd., Sumitomo Electric Wiring Systems, Inc., Sumitomo Wiring Systems, Ltd., Sumitomo Wiring Systems (U.S.A.) Inc., Tokai Rika Co., Ltd., and TRAM, Inc.*

without prejudice to, or waiver of, the rights of any Defendants to contest certification of any other class proposed in these coordinated actions. The Court's findings in this Order shall have no effect on the Court's ruling on any motion to certify any class in these actions or on the Court's ruling(s) concerning any Defendant's motion; and no party may cite or refer to the Court's approval of the Settlement Class as persuasive or binding authority with respect to any motion to certify any such class or any Defendant's motion.

Proposed Order Granting Dealership Plaintiffs' Motion for Preliminary Approval of Settlement with Defendants Lear Corporation and Kyungshin-Lear Sales and Engineering, LLC and Provisional Certification of a Settlement Class at ¶ 14, No. 12-cv-00102, ECF No. 174-2.

The Non-Settling Defendants endorse these provisions and request that they be included in any resulting Orders if the Court should decide to preliminarily or finally approve the proposed settlement. If the Court were to decide not to include such language, Non-Settling Defendants hereby move for the additional and necessary time needed to take discovery and develop the factual record necessary to present a fully briefed motion on class certification to the Court.

Respectfully submitted,

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June 25, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2014, I caused the foregoing **RESPONSE OF NON-SETTLING DEFENDANTS TO MOTION FOR PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT WITH DEFENDANTS LEAR CORPORATION AND KYUNGSHIN-LEAR SALES AND ENGINEERING, LLC AND PROVISIONAL CERTIFICATION OF A SETTLEMENT CLASS** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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